

Permitting & Assistance Branch Staff Report
Revised Full Solid Waste Facilities Permit for
Puente Hills Material Recovery Facility
SWIS No. 19-AA-1043
October 23, 2013

Background Information, Analysis, and Findings:

This report was developed in response to the Los Angeles County Department of Public Health, Solid Waste Management Program, Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for Puente Hills Material Recovery Facility (PHMRF) located in the City of Whittier, and owned by the County Sanitation Districts of Los Angeles County District No. 18 and operated by the County Sanitation Districts of Los Angeles County District No. 2. A copy of the proposed SWFP is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed SWFP was initially received on August 30, 2013. New proposed SWFPs were received on September 12, 2013 and September 24, 2013. Action must be taken on this SWFP no later than November 23, 2013. If no action is taken by November 23, 2013 the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Project:

The following are the key design parameters of the proposed project:

	2009 SWFP	Proposed SWFP
Permitted Hours of Operation	Receipt of Waste: 9:00 am to 4:00 pm, and 7:00 pm to 6:00 am, Monday through Saturday Processing: 24 hours daily	Materials Receipt and Transport: 24 hours per day, Monday through Saturday Processing: 24 hours daily

Other changes include:

1. The submittal of a revised Transfer/Processing Report, dated July 2013.
2. Update to "13. Findings" section to include a summary regarding the CEQA documents prepared for the project.
3. Update to "14. Prohibitions" section to further clarify the list of unacceptable wastes.
4. Revision to "15. Documents" section to include the revised Transfer/ Processing Report, the recently prepared CEQA document, the modified Conditional Use permit, and the National Pollution Discharge Elimination System Permit.
5. Revision to "16. Self-Monitoring" section to include additional self-monitoring programs.
6. Revision to "17. LEA Conditions" section to include additional conditions and restrictions relative to the personnel training, permitted daily/weekly tonnage, load checking, notifications, waste processing activities, nuisance control measures, waste removal frequency, and emergency operations.

Key Issues:

The proposed revised SWFP will allow for the following:

1. The facility will change the permitted hours of operation for the receipt and transport of waste to 24 hours per day, Monday through Saturday.

Background:

The proposed revised SWFP will allow for the continued operation of a Large Volume Transfer/Processing Facility located along the Northwest boundary of the Puente Hills Landfill, in the City of Whittier (County of Los Angeles). The facility is currently operating under the existing SWFP issued on October 19, 2009.

Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated August 22, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on September 5, 2013. The LEA provided a copy to the Department on September 20, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a revised proposed Solid Waste Facilities Permit on September 24, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code (PRC) 50001	The LEA in their permit submittal package received on August 30, 2013, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Nondisposal Facility Element, as described in their memorandum dated August 26, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspection and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on October 23, 2013. See Compliance History below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on August 30, 2013, that the proposed permit is consistent with and supported by the existing CEQA documentation. See Environmental Analysis information below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on July 25, 2013. Written and oral comments were received by LEA staff. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

WEEB staff in the Inspection and Enforcement Agency Compliance Unit conducted a pre-permit inspection on October 23, 2013, and found that the facility is in compliance with applicable state minimum standards and permit terms and conditions.

Based on the LEA's monthly inspection reports, the facility did not receive a violation of state minimum standards or permit terms and conditions during the last five years.

Environmental Analysis:

Under the California Environmental Quality Act (CEQA), the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed revised SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the County Sanitation District No. 2 of Los Angeles County, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The proposed project that will be authorized by the issuance of the proposed permit include:

1. The facility will change the permitted hours of operation for the receipt and transport of waste to 24 hours per day, Monday through Saturday.
2. The proposed SWFP also includes updates/changes to the "Findings," "Prohibitions," "Documents," "Self-Monitoring," and "LEA Conditions" sections.

A June 1992 Environmental Impact Report (EIR), State Clearinghouse No. 1991121070, prepared by the Lead Agency concluded that the environmental impacts caused by the project would have a significant effect on the environment even after mitigation measures were made on the project. The Lead Agency certified the Final EIR, together with the Mitigation Monitoring and Reporting Program, and the Statement of Overriding Considerations, on November 1992. A Conditional Use Permit (CUP), CUP No. 92-251(4), for the PHMRF was approved by the Los Angeles County Board of Supervisors on July 1993. The approved project included a mitigation

measure that imposed restrictions on the inbound and outbound shipment of commodities, residuals, and waste over public roads during peak traffic hours (6:00 a.m. – 9:00 a.m. and 4:00 p.m. – 7:00 p.m.). The hour restrictions were to mitigate impacts from concurrent operation of the facility and the Puente Hills Landfill at their maximum permitted capacity of 17,600 tons of refuse per day.

As a result of a court order, a supplement to the 1992 EIR was conducted by the Lead Agency, SCH No. 93121114, to consider the environmental impacts and cumulative impacts of a potential intermodal facility and a waste-by-rail system originating at the project. The supplement to the 1992 EIR was circulated for an extended review period from December 16, 1994 to February 21, 1995. The Lead Agency certified the Final EIR for the Intermodal Facility and Waste-by-Rail Disposal System and re-certified the Final EIR for the PHMRF on June 14, 1995. The County Board of Supervisors re-approved with slightly modified conditions to the Conditional Use Permit (CUP) No. 92-251(4) for the PHMRF and approved the EIRs on August 3, 1999.

An Addendum/Initial Study to the June 1992 Final EIR, dated January 2013, was prepared by the Lead Agency and approved by the Board of Directors of County Sanitation District No. 2 of Los Angeles County on January 9, 2013. The Addendum eliminates the mitigation measure that imposed the restrictions on the receipt of inbound materials and transport of outbound materials, allowing for the receipt and transport of materials 24 hours per day Monday through Saturday. The Addendum concluded that the proposed change would not result in a substantial change that would require major revision of the previous EIR and will not have a significant effect on the environment or result in a substantial increase in the severity of previously identified significant effects. Based on the Addendum, the revision to the previously approved project would not result in any new impacts and preparation of a subsequent EIR is not required. A Notice of Determination for the Addendum was filed by the Lead Agency on January 10, 2013. A modification to the Conditional Use Permit for the proposed change in hours for the receipt and transport of waste was approved by the Los Angeles County Regional Planning on May 13, 2013.

A CEQA lawsuit was filed in June 2013 against the Los Angeles County Sanitation Districts, as Lead Agency, by the Clean Air Coalition of North Whittier and Avocado Heights. The lawsuit seeks various reliefs, including an order setting aside and vacating the Lead Agency's approval of the project and adoption of the Addendum to the 1992 EIR and requiring that a subsequent or supplemental EIR be prepared. It is Department staff's understanding that a hearing on the merits of the lawsuit is not scheduled until early 2014. The plaintiffs did not seek a stay on the project approval pending the outcome of the litigation.

The LEA has provided a finding that the proposed revised SWFP is consistent with and supported by the cited environmental documents.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the Final EIRs and Addendum as prepared by the Lead Agency since there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document, pursuant to 14 CCR, Sections 15162 and 15163 respectively, or assume the role of Lead Agency, pursuant to 14 CCR, Section 15052, for its consideration of the proposed revised SWFP. Furthermore, since there is no stay on the project approval in the pending lawsuit, CEQA requires the Department to assume the Lead Agency's CEQA document is compliant and continue to process the SWFP (PRC, Section 21167.3(b); Title 14 CCR, Section 15233). Upon

approval of the SWFP, the permittee would then proceed at its own risk pending the outcome of the litigation.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed revised SWFP and all of its components and supporting documentation, this staff report, the EIRs and Addendum adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed revised SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability and associated meetings were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on July 25, 2013, at the County Sanitation Districts of Los Angeles County, Administrative Offices Board Room, located at 1955 Workman Mill Road, Whittier. Twenty-five members of the public were in attendance and provided the following comments and questions related to the project and permit revision application process:

1. A member of the public questioned the reason for extended hours. The operator answered by stating the hours are convenient to the companies travelling to the MRF after the Puente Hills Landfill closes at the end of October 2013.
2. A member of the public asked what reasons are needed for the LEA to not approve the project. The LEA answered by stating that as long as the application is consistent with the modified conditional use permit and the addendum to the FEIR, there is no reason for the LEA to reject a complete and correct application¹.
3. A member of the public asked if there will be more waste transferred to the facility as a result of the change. The LEA answered by clarifying that the permit revision does not include an increase to the permitted tons per day.
4. A member of the public made a statement that the operator should be more considerate of the residents/community nearby and it should not request for extended hours.
5. A member of the public asked for the requirements for an appeal process to the permit. The LEA discussed the appeal process and provided the applicable PRC sections in the power-point presentation.
6. A member of the public directed a question to Department staff regarding the state permit process and a request was made for the Department to mail notices of the upcoming Department monthly meeting. The Department staff person discussed the next steps in the permit process, the availability of public participation in monthly meetings, and the Department's role in the LEA's public informational meeting.
7. A member of the public made a comment that proper notice was not given for the public information meeting. The LEA answered by stating that a 10 day notice was provided as required, pursuant to 27 CRR, Section 21660.
8. A member of the public asked questions about the EIR, the Addendum to the FEIR, and the CEQA history for the facility. The LEA and operator answered by giving an explanation of the CEQA process and CEQA history of the facility. The Addendum to the FEIR analyzed for the proposed changes that would take effect after November 2013.

¹ To clarify the applicable law, under 14 CCR Section 21650, the LEA shall reject an application package if it does not meet the content requirements of 27 CCR Section 21570. Furthermore, the LEA's issuance of a new or revised SWFP shall comport with 27 CCR, Section 21663 and PRC 44014.

9. A member of the public asked if the operator can process waste on Sundays. The LEA discussed that the operation is currently permitted for 24/7 processing.
10. A member of the public expressed concerns regarding requirements of Rule 410, dust, odors, and the Alternative Odor Management Plan (AOMP). The LEA discussed the requirements for an AOMP, and clarified that requirements of Rule 410 are regulated by another agency.
11. A member of the public asked about the intermodal facility/waste-to-rail operation and if there will be a “co-mingling/linking” between the two facilities, and if the permit action will include the addition of the intermodal/waste-to-rail facility. The LEA and operator provided the CEQA history and explained that a separate permit process is required for the intermodal/waste-to-rail facility.
12. A member asked why waste is “double-handled.” The LEA gave an explanation of the purpose for transfer stations.

Since the LEA’s public informational meeting, the LEA received comment letters and emails from the public, which the LEA subsequently responded.

A Petition, submitted by Marlinda Glasman, President of Whittier Woods Homeowners Association Board of Directors, was received by Department staff on August 26, 2013, and on September 9, 2013. The petition, signed by 52 residents of the Whittier Woods community, describes the resident’s strong opposition to the “approval” of the permit revision and that the Department require additional CEQA review.

In addition, the Department has received nine comment letters from the public, including the Clean Air Coalition of North Whittier and Avocado Heights. Several of the commenters had multiple concerns requesting the Department deny or not approve of the permit revision due to concerns regarding traffic, dust, noise, and air quality. Commenters also requested the Department conduct further CEQA review for the project. Staff have included a summary of the comments and responses below.

Diversion/AB 939

Comments were received regarding the design of the facility to recover/recycle 15 percent of the material received, which is not consistent with state law (AB939) of 50 percent recycling.

In response, the current Transfer/Processing Report (TPR) and amended TPR, submitted as part of the application for permit revision, state that the facility is designed to recover 15 percent of the waste that is processed as recyclable material. AB 939 requires every jurisdiction to divert 50 percent of its waste stream, and does not apply to a specific facility or operation.

Environmental Review

Comments were received regarding concerns related to traffic, dust, noise, air quality and need for additional environmental review (e.g., new, subsequent or supplemental EIR) to address potential impacts associated with the change in hours and connection to the Puente Hills Intermodal Facility (PHIMF).

In response, and as detailed in the Environmental Analysis section above, Department staff has reviewed the environmental documentation and has determined that the Final EIRs and Addendum to the June 1992 Final EIR, as prepared by the Lead Agency, are adequate for the Department’s environmental evaluation of the proposed project for those project activities which

are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department. In addition, under the circumstances, the Department must use the Lead Agency's CEQA documents since the Department has no authority to prepare a subsequent or supplemental environmental document, pursuant to 14 CCR, Sections 15162 and 15163 respectively, or assume the role of Lead Agency, pursuant to 14 CCR, Section 15052, for its consideration of the proposed revised SWFP. None of the comments provided any substantial evidence to support an alternate conclusion.

Both of the EIRs identified in Sections 13 and 15 of the proposed SWFP relate to the environmental analysis of the PHMRF and potential cumulative impacts. The 1994 EIR is a supplement to the 1992 EIR, therefore, both documents are referenced in Sections 13 and 15 of the proposed SWFP.

With regard to comments on the PHIMF, the PHIMF is not part of this proposed project.

Transfer/Processing Report

Comments were received regarding the content/description provided in the TPR.

In response, Department staff has reviewed the TPR (as amended) and has determined that the TPR was submitted and contains the information as required by 14 CCR, Section 17403.9/18221.6. The TPR describes the current and proposed design and operation of the facility and how the facility will comply with the terms and conditions of the proposed SWFP and state minimum standards.

The TPR is required to describe the planned method of final disposal of the solid waste, which is described on Page 2, including transport to Class III landfills and in the future the PHIMF or another local intermodal facility as options for final disposal. Providing options for the final disposal of solid waste and handling procedures in the TPR is consistent with the required contents of a TPR. Access to the facility is currently from Crossroads Parkway, which will continue to be used for access to the facility. The requirements/contents of the TPR are listed in 14 CCR, Section 18221.6, which does not require that the location for the storage of intermodal containers or other containers be specified.

The proposed SWFP is for the PHMRF only and does not include the PHIMF. The planned PHIMF does not have to be described in the TPR and will be required to go through its own review and permitting process prior to receiving solid waste, pursuant to 14 CCR or 27 CCR. If the operator proposes a change in the design or operation of the PHMRF, the operator is required to follow the requirements provided in 27 CCR, Section 21620, including revisions to the TPR.

Hours of Operation

Comments were received regarding the proposed hours of operation.

In response, the current SWFP, issued on October 19, 2009, allows processing of materials 24 hours daily, which includes Sundays. There is no proposed change to the currently permitted processing hours and establishing employee hours is not within this Department's authority. Waste receipt and transport will not be allowed on Sundays as specified in the proposed SWFP. Since the proposed change is for an increase in hours, which is considered a significant change pursuant to 27 CCR, Section 21620(a)(4), the operator submitted an application for a SWFP revision to the LEA as required.

Terms & Conditions and Changes to Proposed SWFP

Comments were received regarding the terms and conditions and changes to the proposed SWFP.

In response, LEA Condition 17.A.9. relates to planned changes in design and operation and 27 CCR, Section 21620 requires an operator to notify the LEA of any change in design or operation at least 180 days prior to the proposed change unless otherwise determined by the LEA. The condition is consistent with state minimum standards. The fueling station is identified in Section I.C. and on Exhibit 4 of the TPR; however, the commercial sale of fuel is outside the jurisdiction of the LEA and Department under the Integrated Waste Management Act and the SWFP is not required to include any terms or conditions related to this activity. With regard to multiple versions of the proposed SWFP, the proposed SWFP was resubmitted on September 12, 2013 to reflect the amended TPR date and on September 24, 2013 to reflect the correct owner and operator of the facility.

LEA Responsibilities and Authority

Comments were received regarding the LEA's responsibilities and authority.

In response, a LEA is responsible for permitting solid waste handling activities within their jurisdiction as provided in PRC, Section 43200 et. seq (LEA designation and certification requirements) and Section 44001 et. seq (permitting requirements). The LEA's authority is limited to the statutes and regulations under the Integrated Waste Management Act, Division 30 of the PRC and 27 CCR and 14 CCR. The LEA and Department do not have authority with regard to the requirements of the CUP, which was issued separately by the Los Angeles County Board of Supervisors. The LEA is only responsible for any specific mitigation monitoring program requirements which are within their powers and authority as the LEA under the Integrated Waste Management Act.

If the Department determines that a LEA has failed to enforce the terms and conditions of the SWFP and/or compliance with state minimum standards, the Department follows the provisions in 14 CCR, commencing with Section 18080.

Request for Hearing

Comments were received regarding the Clean Air Coalition of North Whittier and Avocado Heights' request for a hearing that was submitted to the LEA, dated August 30, 2013 (filed pursuant to PRC, Section 44307), and the Department's consideration of the proposed SWFP.

In response, it is Department staff's understanding that the Los Angeles County Solid Waste Facilities Hearing Board (Hearing Board) conducted a Notice of Appeal Hearing on October 21, 2013. As of the preparation of this Staff Report, the Department has not received a copy of the Hearing Board's written decision. With regard to the Department's review of the proposed SWFP pending the Hearing Board's written decision, the Department's processing/consideration of the proposed SWFP is a separate action from the hearing.

Deny/Not Approve Revision

Comments were received requesting the Department deny or not approve the revision of the proposed SWFP.

In response, based on the information provided in the application package and as supported in this staff report, there are no grounds for the Department to object to the concurrence in the revised SWFP pursuant to PRC 44009(a)(2) or conduct further CEQA review.

Department staff provided the Clean Air Coalition of North Whittier and Avocado Heights an opportunity to conduct a conference call with their members prior to the Department's October 15, 2013 monthly meeting to provide verbal comments regarding the facility. However, the Clean Air Coalition of North Whittier and Avocado Heights decided to submit additional written comments (incorporated above) rather than conducting a conference call.

Department staff provided an opportunity for public comment during the Department's Monthly Public Meeting on September 17, 2013 and October 15, 2013.